

# STATE PERSONNEL AND PENSIONS

## TITLE 3.

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**Cross references.** — See notes regarding Conversion Tables and Revision of Division I preceding § 1-101 of this article.

**Revision of Division I — Title 3.** — Former § 3-101 was repealed; former §§ 3-102 through 3-104 were transferred to be present § 2-305(b) through (d), respectively; and §§ 3-101 through 3-107 [now repealed] were added.

Former § 3-201 was repealed and former §§ 3-202 through 3-206 were transferred to be present § 2-304(a)(1), 2-304(a)(2), 2-304(b), 2-304(c) and 2-304(d), respectively.

Former § 3-201 was also repealed by Acts 1997, ch. 20, § 2, approved April 8, 1997, and

effective from date of enactment, to validate the repeal of § 3-201 by ch. 347, Acts 1996. Chapter 20, Acts 1997, also repealed the former subtitle heading "Subtitle 2. Political Activities."

Former § 3-301 was repealed; former §§ 3-302 and 3-303 were transferred to be §§ 5-302 and 5-303, respectively, of this article; former § 3-304(a) and (b) were transferred to be present §§ 5-305 and 5-306, respectively, of this article; former §§ 3-305 through 3-308 were repealed; and former §§ 3-309 and 3-310 were transferred to be present §§ 5-312 and 5-313, respectively, of this article.

Former §§ 3-401, 3-403, 3-404 and 3-408

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were transferred to be present §§ 5-201, 5-202, 5-204 and 5-206, respectively, of this article. Former §§ 3-402, 3-405 through 3-407, 3-409 and 3-410 were repealed.

Former §§ 3-501 and 3-502 were repealed.

Former § 3-601 was repealed and former § 3-602 was transferred to be present § 5-101 of this article.

Former §§ 3-701 through 3-704 were repealed. Former §§ 3-703 and 3-704 were also amended by § 1, ch. 10, Acts 1996.

Former § 3-801 was transferred to be present § 2-306 of this article.

Corresponding title and subtitle headings have been transferred to the present location of the former provisions of this title except that the subtitle headings "Subtitle 1. Reprisals for Grievances, Complaints, or Other Actions Concerning State Employment," "Subtitle 5. Actions Based on Medical Conditions," "Subtitle 7. Telecommuting Pilot Program," and "Subtitle 8. State Substance Abuse Policy" were repealed.

### *Subtitle 1. Definitions and General Provisions.*

## § 3-101. Definitions.

(a) *In general.* — In this title the following words have the meanings indicated.

(b) *Board.* — "Board" means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3-102(a)(1) through (4) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3-102(a)(5) of this subtitle, the State Higher Education Labor Relations Board.

(c) *Collective bargaining.* — "Collective bargaining" means good faith negotiations by authorized representatives of employees and their employer with the intention of:

(1) reaching an agreement about wages, hours, and other terms and conditions of employment; and

(2) incorporating the terms of the agreement in a written memorandum of understanding.

(d) *Employee organization.* — "Employee organization" means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

(e) *Exclusive representative.* — "Exclusive representative" means an employee organization that has been certified by the Board as an exclusive representative under Subtitle 4 of this title.

(f) *President.* — "President" means:

(1) with regard to a constituent institution, as defined in § 12-101 of the Education Article, the president of the constituent institution;

(2) with regard to a center or institute, as those terms are defined in § 12-101 of the Education Article, the president of the center or institute;

(3) with regard to the University System of Maryland Office, the Chancellor of the University System of Maryland; and

(4) with regard to Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College, the president of the institution.

(g) *System institution.* — "System institution" means:

(1) a constituent institution, as defined in § 12-101 of the Education Article;

(2) a center or institute, as those terms are defined in § 12-101 of the Education Article; and

(3) the University System of Maryland Office. (1999, ch. 298, § 2; 2001, ch. 341.)

**Editor's note.** — Chapter 298, Acts 1999, to 3-107 and enacted §§ 3-101 to 3-601 in lieu effective July 1, 1999, repealed former §§ 3-101 thereof.

### § 3-102. Applicability.

(a) *Applicable employees.* — Except as provided in this title or as otherwise provided by law, this title applies to all employees of:

(1) the principal departments within the Executive Branch of State government;

(2) the Maryland Insurance Administration;

(3) the State Department of Assessments and Taxation;

(4) the State Lottery Agency; and

(5) the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

(b) *Inapplicable employees.* — This title does not apply to:

(1) employees of the Maryland Transit Administration, as that term is defined in § 7-601(a)(2) of the Transportation Article;

(2) an employee who is elected to the position by popular vote;

(3) an employee in a position by election or appointment that is provided for by the Maryland Constitution;

(4) an employee who is:

(i) a special appointment in the State Personnel Management System; or

(ii) 1. directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

2. appointed by or on the staff of the Governor or Lieutenant Governor; or

3. assigned to the Government House or the Governor's Office;

(5) an employee assigned to the Board or with access to records of the Board;

(6) an employee in:

(i) the executive service of the State Personnel Management System; or

(ii) a unit of the Executive Branch with an independent personnel system who is:

1. the chief administrator of the unit or a comparable position that is not excluded under item (3) of this subsection as a constitutional or elected office; or

2. a deputy or assistant administrator of the unit or a comparable position;

(7) (i) a temporary or contractual employee in the State Personnel Management System; or

- (ii) a contractual, temporary, or emergency employee in a unit of the Executive Branch with an independent personnel system;
- (8) an employee who is entitled to participate in collective bargaining under another law;
- (9) an employee of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College who is:
  - (i) a chief administrator or in a comparable position;
  - (ii) a deputy, associate, or assistant administrator or in a comparable position;
  - (iii) a member of the faculty, including a faculty librarian;
  - (iv) a student employee, including a teaching assistant or a comparable position, fellow, or post doctoral intern;
  - (v) a contingent, contractual, temporary, or emergency employee;
  - (vi) a contingent, contractual, or temporary employee whose position is funded through a research or service grant or contract, or through clinical revenues; or
  - (vii) an employee whose regular place of employment is outside the State of Maryland;
- (10) an employee whose participation in a labor organization would be contrary to the State's ethics laws;
- (11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection (a)(1) through (4) of this section, as defined in regulations adopted by the Secretary; or
- (12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection (a)(5) of this section, as defined in regulations adopted by the governing board of the institution. (1999, ch. 298, § 2; 2001, chs. 341, 730; 2002, ch. 19, § 1.)

**Effect of amendments.** — Section 1, ch. 19, Acts 2002, approved April 9, 2002, and effective from date of enactment, substituted "appointment" for "appointee" in (b)(4)(i); and redesignated former (b)(13) as present (b)(12).

**Editor's note.** — Section 2, ch. 730, Acts 2001, effective Oct. 1, 2001, provides that "the

Maryland Department of Transportation shall make changes to vehicles, signs, and all other relevant materials necessary as a result of the name change enacted by this Act within existing resources only and without additional expenditures from the Transportation Trust Fund."

### § 3-103. Construction with Article III, § 52 of Maryland Constitution.

This title and any agreement under this title do not limit or otherwise interfere with the powers of the Maryland General Assembly under Article III, § 52 of the Maryland Constitution. (1999, ch. 298, § 2.)

**Cross references.** — See Editor's note to § 3-101 of this subtitle.

*Subtitle 2. State Labor Relations Board.***§ 3-201. Established.**

There is a State Labor Relations Board in the Department. (1999, ch. 298, § 2.)

**Editor's note.** — Section 4, ch. 298, Acts 1999, provides that "the Board shall acknowledge existing bargaining units and exclusive representatives as certified by the State under Executive Order 01.01.1996.13 and shall, with

oversight from the Secretary of the Department of Budget and Management place newly covered employees in such units as appropriate."

**Cited in** Ehrlich v. Md. State Emples. Union, — Md. —, 856 A.2d 669 (2004).

**§ 3-202. Membership.**

(a) *Number; qualifications.* — The Board consists of the following five members:

- (1) the Secretary or a designee of the Secretary;
- (2) two members with knowledge of labor issues appointed by the Governor with the advice and consent of the Senate, who:
  - (i) are not officers or employees of the State or an employee organization; and
  - (ii) are known for objective and independent judgment; and
- (3) two members of the business community, appointed by the Governor with the advice and consent of the Senate, who are known for objective and independent judgment.

(b) *Oath.* — Before taking office, each appointed member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) *Chairman.* — With the advice of the Secretary, the Governor shall designate a chairman from among the appointed members of the Board.

(d) *Continuing member.* — The Secretary or the Secretary's designee shall serve as a continuing member.

(e) *Term.* — (1) The term of an appointed member is 6 years.

(2) The terms of appointed members are staggered as required by the terms provided for appointed members of the Board on July 1, 1999.

(3) A vacancy shall be filled for an unexpired term in the same manner as an original appointment.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) *Removal.* — The Governor may remove an appointed member for incompetence or misconduct.

(g) *Appointment considerations.* — In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

- (1) the ratio of male and female members and the racial makeup of the Board is reflective of the general population of the State; and
  - (2) each major geographic area of the State is represented on the Board.
- (1999, ch. 298, § 2.)

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**Editor's note.** — Section 3, ch. 298, Acts 1999, provides that "the terms of the initial members of the State Labor Relations Board shall expire as follows:

- (1) one member in 2000;
- (2) one member in 2002; and
- (3) two members in 2004."

### § 3-203. Meetings.

(a) *Quorum.* — (1) A majority of the voting members shall constitute a quorum for:

- (i) the transaction of any business; or
- (ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(b) *Time and place.* — The Board shall set the times and places of its meetings.

(c) *Compensation.* — An appointed member of the Board is entitled to:

- (1) the compensation provided in the State budget; and
- (2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget. (1999, ch. 298, § 2.)

### § 3-204. Executive Director.

(a) *Appointment.* — (1) With approval of the Board, the Secretary shall appoint an Executive Director of the Board.

(2) The Executive Director:

- (i) is responsible to and serves at the pleasure of the Secretary; and
- (ii) is entitled to the salary provided in the State budget.

(b) *Duties.* — The Executive Director shall perform the duties that the Secretary assigns, including:

- (1) operating the Office of the Board; and
- (2) keeping the official records of the Board.

(c) *Professional consultants.* — (1) With approval of the Secretary, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director. (1999, ch. 298, § 2.)

### § 3-205. Administrative support.

The Department shall provide administrative support to the Board. (1999, ch. 298, § 2.)

**Stated** in *Ehrlich v. Md. State Emples. Union*, — Md. —, 856 A.2d 669 (2004).

**§ 3-206. Administration and enforcement of title; guidelines for creating new bargaining unit; exclusive representation elections; unfair labor practices and lockouts.**

(a) *In general.* — The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(1) through (4) of this title.

(b) *Creation of new bargaining unit guidelines; monitoring of elections; investigation of unfair labor practices and lockouts.* — In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) (i) establish guidelines for creating new bargaining units that include a consideration of:

1. the effect of overfragmentation on the employer;
2. the administrative structures of the State employer;
3. the recommendations of the parties;
4. the recommendations of the Secretary;
5. the desires of the employees involved;
6. the communities of interest of the employees involved; and
7. the wages, hours, and other working conditions of the employees;

(ii) establish standards for determining an appropriate bargaining unit; and

(iii) investigate and resolve disputes about appropriate bargaining units;

(2) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(3) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts. (1999, ch. 298, § 2; 2001, ch. 341.)

**Obligation to make rules.** — There was no basis for summary judgment declaring that a departing governor's subordinate's assent to a memorandum of understanding with a state employees' union, never ratified by that governor, bound the successor governor to submit a budget that incorporated raises included in the memorandum; the trial court had been correct,

however, in declaring that the agency responsible for state employees was not required to adopt regulations governing unfair labor practices — in any case, the union's letter to the agency was insufficient to constitute a petition for rulemaking. *Ehrlich v. Md. State Emples. Union*, — Md. —, 856 A.2d 669 (2004).

**§ 3-207. Regulatory and enforcement authority of Secretary.**

The Secretary may adopt and enforce regulations, guidelines, and policies to carry out this title which:

(1) define unfair labor practices; and

(2) establish permissible labor-related activities on the work site. (1999, ch. 298, § 2.)

**Obligation to make rules.** — There was no basis for summary judgment declaring that a departing governor's subordinate's assent to a memorandum of understanding with a state

employees' union, never ratified by that governor, bound the successor governor to submit a budget that incorporated raises included in the memorandum; the trial court had been correct,

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however, in declaring that the agency responsible for state employees was not required to adopt regulations governing unfair labor practices — in any case, the union's letter to the

agency was insufficient to constitute a petition for rulemaking. *Ehrlich v. Md. State Emples. Union*, — Md. —, 856 A.2d 669 (2004).

## § 3-208. Investigations.

(a) *Scope*. — The Board may investigate:

- (1) a possible violation of this title or any regulation adopted under it; and
- (2) any other relevant matter.

(b) *Hearings*. — The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under this title or a regulation adopted under it. (1999, ch. 298, § 2.)

## § 3-209. Confidentiality of employee lists.

Names or lists of employees provided to the Board in connection with an election under this title are not subject to disclosure in accordance with Title 10, Subtitle 6 of the State Government Article. (1999, ch. 298, § 2.)

## § 3-210. Failure to comply with order of Board.

(a) *Circuit court compliance petition*. — If a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the person to comply with the Board's order.

(b) *Bond exemption*. — The Board shall not be required to post bond in an action under subsection (a) of this section. (1999, ch. 298, § 2.)

**Cross references.** — See Editor's note to § 3-201 of this subtitle.

**Cited in** *Ehrlich v. Md. State Emples. Union*, — Md. —, 856 A.2d 669 (2004).

*Subtitle 2A. State Higher Education Labor Relations Board.*

## § 3-2A-01. Established.

There is a State Higher Education Labor Relations Board established as an independent unit of State government. (2001, ch. 341; 2004, ch. 25, § 6.)

**Editor's note.** — Section 2, ch. 341, Acts 2001, effective July 1, 2001, provides that "the terms of the initial members of the State Higher Education Labor Relations Board shall expire as follows:

- (a) one member in 2003;
- (b) two members in 2004; and
- (c) two members in 2005."

Section 3, ch. 341, Acts 2001, provides that this subtitle shall take effect July 1, 2001.

Section 6, ch. 25, Acts 2004, provides that "the publisher of the Annotated Code of Mary-

land, in consultation with and subject to the approval of the Department of Legislative Services, at the time of publication of a new volume or a replacement volume of the Annotated Code, shall make nonsubstantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any reference rendered obsolete by an Act of the General Assembly, with no further action required by the General Assembly." Pursuant to § 6 of ch. 25, "unit of State government" was substituted for "unit of State Government".



**§ 3-2A-02. Membership.**

(a) *Number; qualifications.* — The Board consists of the following five members:

(1) four members with expertise in higher education, appointed by the Governor with the advice and consent of the Senate from a list provided by the Maryland Higher Education Commission:

(i) who are not officers or employees of a State institution of higher education or an employee organization;

(ii) who are known for objective and independent judgment; and

(iii) two of whom have knowledge of labor issues; and

(2) one member of the general public, appointed by the Governor with the advice and consent of the Senate from a list provided by the Maryland Higher Education Commission, who is known for objective and independent judgment.

(b) *Oath of office.* — Before taking office, each member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) *Chairman.* — With the advice of the governing boards of State institutions of higher education, the Governor shall designate a chairman from among the members of the Board.

(d) *Term.* — (1) The term of a member is 6 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2001.

(3) A vacancy shall be filled for an unexpired term in the same manner as an original appointment.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(e) *Removal.* — The Governor may remove a member for incompetence or misconduct.

(f) *Appointment considerations.* — In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male and female members and the racial makeup of the Board is reflective of the general population of the State; and

(2) each major geographic area of the State is represented on the Board. (2001, ch. 341.)

**§ 3-2A-03. Meetings; quorum; compensation.**

(a) *Quorum.* — (1) A majority of the voting members shall constitute a quorum for:

(i) the transaction of any business; or

(ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(b) *Meetings.* — The Board shall set the times and places of its meetings.

(c) *Compensation.* — A member of the Board is entitled to:

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- (1) the compensation provided in the State budget; and
- (2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget. (2001, ch. 341.)

## § 3-2A-04. Executive Director.

(a) *Appointment.* — (1) The Board shall appoint an Executive Director of the Board.

(2) The Executive Director:

- (i) is responsible to and serves at the pleasure of the Board; and
- (ii) is entitled to the salary provided in the State budget.

(b) *Duties.* — The Executive Director shall perform the duties that the Board assigns, including:

- (1) operating the office of the Board; and
- (2) keeping the official records of the Board.

(c) *Staffing.* — The Executive Director may hire any staff necessary to carry out the provisions of this subtitle.

(d) *Professional consultants.* — (1) With approval of the Board, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director. (2001, ch. 341.)

## § 3-2A-05. Additional duties.

(a) *Enforcement of provisions relating to certain employees.* — The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(5) of this title.

(b) *Elections; complaints.* — In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(2) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts. (2001, ch. 341.)

## § 3-2A-06. Regulatory and enforcement authority of Board.

The Board may adopt and enforce regulations, guidelines, and policies to carry out this title which:

- (1) define unfair labor practices; and
- (2) establish permissible labor-related activities on the work site. (2001, ch. 341.)

## § 3-2A-07. Investigations.

(a) *Scope.* — The Board may investigate:

- (1) a possible violation of this title or any regulation adopted under it; and
- (2) any other relevant matter.

(b) *Hearings.* — The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under this title or a regulation adopted under it. (2001, ch. 341.)

### § 3-2A-08. Confidentiality of employee lists.

Names or lists of employees provided to the Board in connection with an election under this title are not subject to disclosure in accordance with Title 10, Subtitle 6 of the State Government Article. (2001, ch. 341.)

### § 3-2A-09. Failure to comply with order of Board.

(a) *Circuit court compliance petition.* — If a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the person to comply with the Board's order.

(b) *Bond exemption.* — The Board shall not be required to post bond in an action under subsection (a) of this section. (2001, ch. 341.)

**Editor's note.** — See note to § 3-2A-01 of this subtitle.

### *Subtitle 3. Rights of Employees and Employers; Strikes, Lockouts, and Unfair Labor Practices Prohibited.*

### § 3-301. Rights of employee.

(a) *In general.* — Employees subject to this title have the right to:

(1) take part or refrain from taking part in forming, joining, supporting, or participating in any employee organization or its lawful activities;

(2) be fairly represented by their exclusive representative, if any, in collective bargaining; and

(3) except as provided in §§ 3-303 and 3-305 of this subtitle, engage in other concerted activities for the purpose of collective bargaining.

(b) *Direct discussions with employer.* — An employee who is a member of a bargaining unit with an exclusive representative may, without the intervention of an employee organization, discuss any matter with the employer. (1999, ch. 298, § 2.)

### § 3-302. Rights of the State.

The State, through its appropriate officers and employees, has the right to:

(1) (i) determine the mission, budget, organization, numbers, types and grades of employees assigned, the work projects, tours of duty, methods, means, and personnel by which its operations are to be conducted, technology needed, internal security practices, and relocation of its facilities; and

(ii) maintain and improve the efficiency and effectiveness of governmental operations;

(2) determine the:

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(i) services to be rendered, operations to be performed, and technology to be utilized; and

(ii) overall methods, processes, means, and classes of work or personnel by which governmental operations are to be conducted;

(3) hire, direct, supervise, and assign employees;

(4) (i) promote, demote, discipline, discharge, retain, and lay off employees; and

(ii) terminate employment because of lack of funds, lack of work, under conditions where the employer determines continued work would be inefficient or nonproductive, or for other legitimate reasons;

(5) set the qualifications of employees for appointment and promotion, and set standards of conduct;

(6) promulgate State or Department rules, regulations, or procedures;

(7) provide a system of merit employment according to the standard of business efficiency; and

(8) take actions, not otherwise specified in this section to carry out the mission of the employer. (1999, ch. 298, § 2.)

### § 3-303. Strikes.

(a) *Defined.* — (1) In this section, “strike” means any concerted action to impede the full and proper performance of employment duties in order to induce, influence, coerce, or enforce demands for a change in wages, hours, terms, or other conditions of employment.

(2) “Strike” includes a total or partial:

(i) refusal or failure to report to work;

(ii) refusal or failure to perform employment duties;

(iii) withdrawal from work;

(iv) work stoppage; or

(v) work slowdown.

(b) *Prohibition.* — State employees are prohibited from engaging in any strike.

(c) *Disciplinary action.* — An appointing authority may take disciplinary action, including termination of employment, against an employee who participates in a strike.

(d) *Revocation of certification.* — The Board shall revoke the certification of an exclusive representative who engages in any strike activity in violation of this section. (1999, ch. 298, § 2.)

### § 3-304. Lockouts.

(a) *Defined.* — In this section, “lockout” means action taken by an employer to:

(1) interrupt or prevent the continuity of the employees’ usual work for the purpose and with the intent of coercing the employees into relinquishing rights guaranteed by this title; or

(2) bring economic pressure on employees for the purpose of securing the agreement of their exclusive representative to certain collective bargaining agreement terms.

(b) *Prohibition.* — The State is prohibited from engaging in any lockout. (1999, ch. 298, § 2.)

### § 3-305. Remedies.

(a) *State.* — In the event a strike occurs or appears imminent, the State may petition the circuit court for appropriate relief, including injunction.

(b) *Employee organization.* — In the event a lockout occurs or appears imminent, the employee organization involved may petition the circuit court for appropriate relief, including injunction. (1999, ch. 298, § 2.)

### § 3-306. Unfair labor practices prohibited.

(a) *State.* — The State and its officers, employees, agents, or representatives are prohibited from engaging in any unfair labor practice, as defined by the Secretary.

(b) *Employee organizations.* — Employee organizations and their agents or representatives are prohibited from engaging in any unfair labor practice, as defined by the Secretary. (1999, ch. 298, § 2.)

**Cross references.** — See Editor's note to § 3-301 of this subtitle.

#### *Subtitle 4. Election and Certification of Exclusive Representative.*

### § 3-401. Election of exclusive representative of bargaining unit.

(a) *Conducted by Board.* — Except as otherwise provided in this subtitle, the Board shall conduct an election for an exclusive representative of a bargaining unit if:

- (1) a valid petition is filed in accordance with § 3-402 of this subtitle; and
- (2) the bargaining unit involved in the petition is determined to be an appropriate bargaining unit under § 3-403 of this subtitle.

(b) *Limitation.* — The Board may not conduct an election for an exclusive representative of a bargaining unit if the Board has conducted an election or certified an exclusive representative for that bargaining unit within the preceding 2 years. (1999, ch. 298, § 2; 2001, ch. 341.)

### § 3-402. Petitions for election of exclusive representative.

(a) *Who may file.* — A petition for the election of an exclusive representative of a bargaining unit may be filed with the Board by:

- (1) an employee organization seeking certification as exclusive representative; or
- (2) an employee, a group of employees, or an employee organization seeking a new election to determine an exclusive representative.

(b) *Contents; required employee support.* — A petition shall:

- (1) contain the information the Board requires; and

(2) be accompanied by a showing of interest supported by 30% of the employees in the appropriate unit indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining. (1999, ch. 298, § 2.)

**§ 3-403. Determination of appropriateness of bargaining units.**

(a) *In general.* — (1) Except as otherwise provided in this title, the Board shall determine the appropriateness of each bargaining unit.

(2) If there is no dispute about the appropriateness of the establishment of the bargaining unit, the Board shall issue an order defining an appropriate bargaining unit.

(3) If there is a dispute about the appropriateness of the establishment of the bargaining unit, the Board shall:

- (i) conduct a hearing; and
- (ii) issue an order defining an appropriate bargaining unit.

(b) *Settlement of differing criteria.* — If the appropriate bargaining unit as determined by the Board differs from the bargaining unit described in the petition, the Board may:

- (1) dismiss the petition; or

(2) direct an election in the appropriate bargaining unit if the signatures included in the petition include those of at least 30% of the employees in the appropriate bargaining unit.

(c) *Eligibility for bargaining units.* — A bargaining unit shall consist only of employees defined in regulations adopted by the Secretary and not specifically excluded by § 3-102(b) of this title.

(d) *Separate bargaining units of system institutions.* — (1) Each system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall have separate bargaining units.

(2) The presidents of the system institutions may agree to cooperate for the purpose of collective bargaining:

- (i) before the election of exclusive representatives; or
- (ii) after the certification of exclusive representatives under § 3-406(a) of this subtitle.

(3) Appropriate bargaining units shall consist of:

- (i) all eligible nonexempt employees, as described in the federal Fair Labor Standards Act, except eligible sworn police officers;
- (ii) all eligible exempt employees, as described in the federal Fair Labor Standards Act; and
- (iii) all eligible sworn police officers.

(e) *Assignment of classification titles.* — (1) Except as provided in paragraph (2) of this subsection, the Secretary or the Secretary's designee shall have the authority to assign classification titles and positions to bargaining units as appropriate.

(2) The following individuals and entities shall assign classification title and positions to bargaining units at the following institutions:

- (i) at a system institution, the President of the system institution; and
- (ii) at Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution. (1999, ch. 298, § 2; 2001, ch. 341; 2002, ch. 19, § 1; 2004, ch. 25, § 6.)

**Effect of amendments.** — Section 1, ch. 19, Acts 2002, approved April 9, 2002, and effective from date of enactment, redesignated the former introductory language of (d)(2)(i) as the present introductory language of (d)(2) and redesignated the remaining subparagraphs in (d)(2) accordingly.

**Editor's note.** — Section 6, ch. 25, Acts 2004, provides that "the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department

of Legislative Services, at the time of publication of a new volume or a replacement volume of the Annotated Code, shall make nonsubstantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any reference rendered obsolete by an Act of the General Assembly, with no further action required by the General Assembly." Pursuant to § 6 of ch. 25, "subtitle" was substituted for "title" in (d)(2)(ii).

### § 3-404. Certification filing requirements.

Each employee organization that seeks certification as an exclusive representative shall file with the Board:

- (1) a copy of the employee organization's governing documents, which:
  - (i) give individual members the right to participate in activities of the organization;
  - (ii) require periodic elections by secret ballot that are conducted with recognized safeguards to ensure the equal rights of all members to nominate, seek office, and vote in the elections;
  - (iii) direct full and accurate accounting of all income and expenses using standard accounting methods; and
  - (iv) require an annual report that is made available to all members of the appropriate bargaining unit; and
- (2) a certification that the organization:
  - (i) accepts members without regard to any factor in § 2-302(b) of this article; and
  - (ii) will deny membership only to an employee for a reason that is acceptable to the Board. (1999, ch. 298, § 2.)

### § 3-405. Elections.

(a) *Notice.* — Within 5 days of determination that a valid petition has been submitted, the Board shall notify interested employee organizations of the pending election petition.

(b) *Time.* — An election shall be held in any unit within 90 days after the filing of a valid petition for election in such unit in accordance with guidelines established by the Board.

(c) *Procedure.* — (1) All elections shall be conducted by secret ballot.

(2) The Board shall place the following choices on the ballot:

- (i) the name of the exclusive representative, if any;
- (ii) the name of the employee organization designated in the petition filed under § 3-402 of this subtitle with respect to an appropriate bargaining unit;

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(iii) the name of each employee organization designated in a petition filed with the Board, within 15 days of notice of the pending election petition, that includes the signatures of at least 10% of the employees in the appropriate bargaining unit; and

(iv) a provision for "no exclusive representative".

(d) *Runoff*. — If none of the choices on a ballot receives a majority of the votes cast in an election, the Board shall conduct a runoff election between the choices that received the two highest number of votes in the election. (1999, ch. 298, § 2.)

§ 3-406. Certification.

(a) *Determination by election*. — The Board shall certify as exclusive representative the employee organization receiving the votes in an election from a majority of the employees voting in the election.

(b) *Denial or revocation of certification*. — After notice and an opportunity for a hearing, the Board may deny or revoke certification as exclusive representative of an employee organization for willful failure to comply with:

- (1) this title; or
- (2) the governing documents of the organization. (1999, ch. 298, § 2; 2001, ch. 341.)

§ 3-407. Responsibilities of certified exclusive employee representative.

An employee organization certified as the exclusive representative shall:

- (1) serve as the sole and exclusive bargaining agent for all employees in the bargaining unit;
- (2) represent fairly and without discrimination all employees in the bargaining unit, whether or not the employees are members of the employee organization or are paying dues or other contributions to it or participating in its affairs; and
- (3) promptly file with the Board all changes and amendments to the organization's governing documents. (1999, ch. 298, § 2.)

**Cross references.** — See Editor's note to § 3-401 of this subtitle.

*Subtitle 5. Collective Bargaining Process.*

§ 3-501. Bargaining process.

(a) *Designation of representatives*. — (1) The following individuals or entities shall designate one or more representatives to participate as a party in collective bargaining on behalf of the State or the following institutions:

- (i) on behalf of the State, the Governor;
- (ii) on behalf of a system institution, the president of the system institution; and



(iii) on behalf of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

(2) The exclusive representative shall designate one or more representatives to participate as a party in collective bargaining on behalf of the exclusive representative.

(b) *Meeting times; good faith.* — The parties shall meet at reasonable times and engage in collective bargaining in good faith.

(c) *Conclusion of negotiations; inclusion in budget request.* — (1) The parties shall make every reasonable effort to conclude negotiations in a timely manner for inclusion by the principal unit in its budget request to the Governor.

(2) (i) The parties shall conclude negotiations before January 1 for any item requiring an appropriation of funds for the fiscal year that begins on the following July 1.

(ii) In the budget bill submitted to the General Assembly, the Governor shall include any amounts in the budgets of the principal units required to accommodate any additional cost resulting from the negotiations, including the actuarial impact of any legislative changes to any of the State pension or retirement systems that are required, as a result of the negotiations, for the fiscal year beginning the following July 1 if the legislative changes have been negotiated to become effective in that fiscal year.

(d) *Memorandum of understanding.* — (1) A memorandum of understanding that incorporates all matters of agreement reached by the parties shall be executed by the exclusive representative and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(ii) for a memorandum of understanding relating to a system institution, the president of the system institution or the president's designee; and

(iii) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(2) To the extent these matters require legislative approval or the appropriation of funds, the matters shall be recommended to the General Assembly for approval or for the appropriation of funds.

(3) To the extent matters involving a State institution of higher education require legislative approval, the legislation shall be recommended to the Governor for submission to the General Assembly.

(e) *Closed session negotiations.* — Negotiations or matters relating to negotiations shall be considered closed sessions under § 10-508 of the State Government Article.

(f) *Exemption for employees of higher education institution.* — (1) The terms of a memorandum of understanding executed by the Governor or the Governor's designee and an exclusive representative of a bargaining unit for skilled service or professional service employees in the State Personnel Management System are not applicable to employees of a State institution of higher education.

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(2) The terms of a memorandum of understanding executed by a president of a system institution or the governing board of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, or their respective designees, and the exclusive representative of a bargaining unit for employees of a State institution of higher education are not applicable to skilled service or professional service employees in the State Personnel Management System. (1999, ch. 298, § 2; 2001, ch. 341; 2002, ch. 440, § 8.)

**Effect of amendments.** — Chapter 440, Acts 2002, effective July 1, 2002, added (c)(2) and the designation of (c)(1).

**Unratified memorandum of understanding.** — There was no basis for summary judgment declaring that a departing governor's subordinate's assent to a memorandum of understanding with a state employees' union, never ratified by that governor, bound the successor governor to submit a budget that incor-

porated raises included in the memorandum; the trial court had been correct, however, in declaring that the agency responsible for state employees was not required to adopt regulations governing unfair labor practices — in any case, the union's letter to the agency was insufficient to constitute a petition for rulemaking. *Ehrlich v. Md. State Emples. Union*, — Md. —, 856 A.2d 669 (2004).

## § 3-502. Matters to be negotiated.

(a) *Permissible matters.* — Collective bargaining shall include all matters relating to wages, hours, and other terms and conditions of employment.

(b) *Impermissible matters.* — Collective bargaining may not include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

(c) *Matters inconsistent with applicable law.* — Notwithstanding subsection (a) of this section, the representatives of the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(1) shall not be required to negotiate over any matter that is inconsistent with applicable law; and

(2) may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become effective unless the applicable law is amended by the General Assembly. (1999, ch. 298, § 2; 2001, ch. 341.)

**Cross references.** — See Editor's note to § 3-501 of this subtitle.

### Subtitle 6. Memorandum of Understanding.

## § 3-601. Contents; signatures; length; ratification.

(a) *Contents; signatures.* — (1) A memorandum of understanding shall contain all matters of agreement reached in the collective bargaining process.

(2) The memorandum shall be in writing and signed by the exclusive representative involved in the collective bargaining negotiations and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(ii) for a memorandum of understanding relating to a system institution, the president of the system institution or the president's designee; and

(iii) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(b) *Length*. — No memorandum of understanding is valid if it extends for less than 1 year or for more than 3 years.

(c) *Ratification*. — (1) Except as provided in paragraph (2) of this subsection, a memorandum of understanding is not effective until it is ratified by the Governor and a majority of the votes cast by the employees in the bargaining unit.

(2) In the case of a State institution of higher education, a memorandum of understanding is not effective until it is ratified by the institution's governing board and a majority of the votes cast by the employees in the bargaining unit. (1999, ch. 298, § 2; 2001, ch. 341.)

**Ratification.** — There was no basis for summary judgment declaring that a departing governor's subordinate's assent to a memorandum of understanding with a state employees' union, never ratified by that governor, bound the successor governor to submit a budget that incorporated raises included in the memorandum; the trial court had been correct, however, in

declaring that the agency responsible for state employees was not required to adopt regulations governing unfair labor practices — in any case, the union's letter to the agency was insufficient to constitute a petition for rulemaking. *Ehrlich v. Md. State Emples. Union*, — Md. —, 856 A.2d 669 (2004).

### § 3-602. Termination of collective bargaining agreement.

The President of a system institution may elect to terminate a cooperation agreement with another system institution, entered into for the purpose of collective bargaining with exclusive representatives, effective on the termination date of the memorandum of understanding between the exclusive representatives and the system institutions that are parties to the cooperation agreement. (2001, ch. 341.)

## TITLE 3.

## COLLECTIVE BARGAINING.

*Subtitle 1. Definitions and General Provisions.*

- Sec.  
 3-101. Definitions.  
     (a) In general.  
     (b) Board.  
     (c) Collective bargaining.  
     (d) Employee organization.  
     (e) Exclusive representative.  
     (f) President.  
     (g) System institution.  
 3-103. Construction with Article III, § 52 of Maryland Constitution.

*Subtitle 2. State Labor Relations Board.*

- 3-201. Established.  
 3-202. Membership.  
 3-204. Executive Director.  
 3-205. Administration and enforcement of title; guidelines for creating new bargaining unit; exclusive representation elections; unfair labor practices and lockouts.  
 3-206. Regulatory and enforcement authority of Secretary.  
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Sec.

3-208. Use of employee information; confidentiality.

3-209. Failure to comply with order of Board.

*Subtitle 2A. State Higher Education Labor Relations Board.*

- 3-2A-04. Executive Director.  
 3-2A-06. Regulatory and enforcement authority of Board.  
 3-2A-08. Disclosure of employee information to exclusive representative; notice.

*Subtitle 3. Rights of Employees and Employers; Strikes, Lockouts, and Unfair Labor Practices Prohibited.*

- 3-301. Rights of employee.  
 3-306. Unfair labor practices prohibited.

*Subtitle 4. Election and Certification of Exclusive Representative.*

- 3-405. Elections.

*Subtitle 5. Collective Bargaining Process.*

- 3-501. Bargaining process.

*Subtitle 1. Definitions and General Provisions.***§ 3-101. Definitions.**

(a) *In general.* — In this title the following words have the meanings indicated.

(b) *Board.* — “Board” means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3-102(a)(1) through (4) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3-102(a)(5) of this subtitle, the State Higher Education Labor Relations Board.

(c) *Collective bargaining.* — “Collective bargaining” means:

(1) good faith negotiations by authorized representatives of employees and their employer with the intention of:

(i) 1. reaching an agreement about wages, hours, and other terms and conditions of employment; and

2. incorporating the terms of the agreement in a written memorandum of understanding or other written understanding; or

(ii) clarifying terms and conditions of employment;

(2) administration of terms and conditions of employment; or

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(3) the voluntary adjustment of a dispute or disagreement between authorized representatives of employees and their employer that arises under a memorandum of understanding or other written understanding.

(d) *Employee organization*. — “Employee organization” means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

(e) *Exclusive representative*. — “Exclusive representative” means an employee organization that has been certified by the Board as an exclusive representative under Subtitle 4 of this title.

(f) *President*. — “President” means:

(1) with regard to a constituent institution, as defined in § 12-101 of the Education Article, the president of the constituent institution;

(2) with regard to a center or institute, as those terms are defined in § 12-101 of the Education Article, the president of the center or institute;

(3) with regard to the University System of Maryland Office, the Chancellor of the University System of Maryland; and

(4) with regard to Morgan State University, St. Mary’s College of Maryland, and Baltimore City Community College, the president of the institution.

(g) *System institution*. — “System institution” means:

(1) a constituent institution, as defined in § 12-101 of the Education Article;

(2) a center or institute, as those terms are defined in § 12-101 of the Education Article; and

(3) the University System of Maryland Office. (1999, ch. 298, § 2; 2001, ch. 341; 2006, ch. 62.)

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, rewrote (c).

### § 3-103. Construction with Article III, § 52 of Maryland Constitution.

This title and any agreement under this title do not limit or otherwise interfere with the powers of the Governor or the Maryland General Assembly under Article III, § 52 of the Maryland Constitution. (1999, ch. 298, § 2; 2006, ch. 62.)

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, inserted “Governor or the.”

#### *Subtitle 2. State Labor Relations Board.*

### § 3-201. Established.

There is a State Labor Relations Board established as an independent unit of State government. (1999, ch. 298, § 2; 2006, ch. 62.)

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, substituted “established as an independent unit of State government” for “in the Department.”

### § 3-202. Membership.

(a) *Number; qualifications.* — The Board consists of the following five members:

(1) one member appointed by the Governor with the advice and consent of the Senate representing the public, who:

(i) is not an officer or employee of the State or a State employee organization; and

(ii) is not an elected official of the State or a State employee organization;

(2) two members with knowledge of labor issues chosen from a list of candidates submitted by each exclusive representative, appointed by the Governor with the advice and consent of the Senate, who:

(i) are not officers or employees of the State or a State employee organization; and

(ii) are known for objective and independent judgment; and

(3) two members of the business community, appointed by the Governor with the advice and consent of the Senate, who:

(i) are not officers or employees of the State or a State employee organization; and

(ii) are known for objective and independent judgment.

(b) *Oath.* — Before taking office, each member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) *Chairman.* — From among its members, the Board shall elect a chairman.

(d) *Term.* — (1) The term of a member is 6 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2006.

(3) A vacancy shall be filled for an unexpired term in the same manner as an original appointment.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) *Removal.* — The Governor may remove a member only for incompetence or misconduct.

(f) *Appointment considerations.* — In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male and female members and the racial makeup of the Board is reflective of the general population of the State; and

(2) each major geographic area of the State is represented on the Board. (1999, ch. 298, § 2; 2006, ch. 62.)

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, rewrote (a); deleted “appointed” before “member” in (b); rewrote (c); deleted (d) and made related changes; substituted “a member” for “an appointed member” in (d)(1) and (e); and in (d)(2), deleted “appointed” before “members” twice and substituted “2006” for “1999.”

**Editor’s note.**

Section 2, ch. 62, Acts 2006, provides that “the terms of the members of the State Labor Relations Board shall expire as follows:

- “(a) one member in 2006;
- “(b) two members in 2007; and
- “(c) two members in 2009.”

**§ 3-204. Executive Director.**

(a) *Appointment.* — (1) The State Labor Relations Board and the State Higher Education Labor Relations Board jointly shall appoint an executive director of the boards.

(2) The Executive Director:

- (i) is responsible to and serves at the pleasure of the boards; and
- (ii) is entitled to the salary provided in the State budget.

(b) *Duties.* — The Executive Director shall perform the duties that the boards assign, including:

- (1) operating the office of the boards; and
- (2) keeping the official records of the boards.

(c) *Staff.* — The Executive Director may hire any staff necessary to carry out the provisions of this subtitle.

(d) *Professional consultants.* — (1) With approval of the boards, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director. (1999, ch. 298, § 2; 2006, ch. 62.)

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, rewrote (a)(1); sub-

stituted “boards” for “Secretary” throughout the section; substituted “assign” for “assigns” in (b); added (c); and made related changes.

**§ 3-205. Administration and enforcement of title; guidelines for creating new bargaining unit; exclusive representation elections; unfair labor practices and lockouts.**

(a) *In general.* — The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(1) through (4) of this title.

(b) *Creation of new bargaining unit guidelines; monitoring of elections; investigation of unfair labor practices and lockouts.* — In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) (i) establish guidelines for creating new bargaining units that include a consideration of:

- 1. the effect of overfragmentation on the employer;
- 2. the administrative structures of the State employer;
- 3. the recommendations of the parties;
- 4. the recommendations of the Executive Director;

- 5. the desires of the employees involved;
- 6. the communities of interest of the employees involved; and
- 7. the wages, hours, and other working conditions of the employees;
- (ii) establish standards for determining an appropriate bargaining unit; and
- (iii) investigate and resolve disputes about appropriate bargaining units;
- (2) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and
- (3) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts. (1999, ch. 298, § 2; 2001, ch. 341; 2006, ch. 62.)

**Cross references.** — Chapter 62, Acts 2006, enacted over the Governor's veto April 10, 2006, and effective July 1, 2006, repealed former § 3-205 of this subtitle and redesignated former §§ 3-206 through 3-210 as §§ 3-205 through 3-209 of this subtitle.

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, substituted "Executive Director" for "Secretary" in (b)(1)(i)4.

**Editor's note.** — Chapter 62, Acts 2006,

enacted over the Governor's veto April 10, 2006, and effective July 1, 2006, repealed former § 3-205 of this subtitle and redesignated former § 3-206 as § 3-205 of this subtitle.

**University of Baltimore Law Forum.** — For note, "Recent Development: Ehrlich v. Maryland State Employees Unions: The Governor Must Take Affirmative Steps to Ratify and Make Effective Memoranda of Understanding Following a Collective Bargaining Agreement," see, 35 U. Balt. L.F. 64 (2004).

### § 3-206. Regulatory and enforcement authority of Secretary.

The Board shall adopt and enforce regulations, guidelines, and policies to carry out this title, including establishing permissible labor-related activities on the work site. (1999, ch. 298, § 2; 2006, ch. 62.)

**Cross references.** — See editor's note concerning redesignations under § 3-205 of this subtitle.

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, rewrote the section.

**Editor's note.** — Chapter 62, Acts 2006, enacted over the Governor's veto April 10, 2006, and effective July 1, 2006, redesignated former

§ 3-206 as § 3-205 of this subtitle and redesignated former § 3-207 as § 3-206 of this subtitle.

**University of Baltimore Law Forum.** — For note, "Recent Development: Ehrlich v. Maryland State Employees Unions: The Governor Must Take Affirmative Steps to Ratify and Make Effective Memoranda of Understanding Following a Collective Bargaining Agreement," see, 35 U. Balt. L.F. 64 (2004).

### § 3-207. Investigations.

(a) *Scope.* — The Board shall investigate:

- (1) a possible violation of this title or any regulation adopted under it; and
- (2) any other relevant matter.

(b) *Hearings.* — The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under this title or a regulation adopted under it. (1999, ch. 298, § 2; 2006, ch. 62.)



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**Cross references.** — See editor's note concerning redesignations under § 3-205 of this subtitle.

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, substituted "shall" for "may" in (a).

**Editor's note.** — Chapter 62, Acts 2006, enacted over the Governor's veto April 10, 2006, and effective July 1, 2006, redesignated former § 3-207 as § 3-206 of this subtitle and redesignated former § 3-208 as § 3-207 of this subtitle.

### § 3-208. Use of employee information; confidentiality.

(a) *Disclosure of employee information to exclusive representative on request.* — On written request of an exclusive representative, for each employee in the bargaining unit represented by the exclusive representative, the Department shall provide the exclusive representative with the employee's:

- (1) name;
- (2) position classification;
- (3) unit;
- (4) home and work site addresses where the employee receives interoffice or United States mail; and
- (5) home and work site telephone numbers.

(b) *Limitation on requests.* — An exclusive representative may present a request for employee information, as provided under subsection (a) of this section, twice every calendar year.

(c) *Confidentiality of employee information in general.* — Names or lists of employees provided to the Board in connection with an election under this title are not subject to disclosure in accordance with Title 10, Subtitle 6 of the State Government Article.

(d) *Notification of request and denial by employee.* — (1) Thirty days before providing an employee's name, addresses, telephone numbers, and work information to an exclusive representative, the employer shall notify the employee of the provisions of this section.

(2) The employee may, within 15 days of the employer's notice under paragraph (1) of this subsection, notify the employer that the employee does not want the employee's name, addresses, telephone numbers, or work information to be provided to an exclusive representative.

(3) If an employee provides timely notification to the employer under paragraph (2) of this subsection, the employer may not provide the employee's name, addresses, telephone numbers, or work information.

(4) The notification of an employee to the employer under paragraph (2) of this subsection shall remain in effect until the employee otherwise notifies the employer.

(e) *Incumbent representative prohibited from making request.* — An incumbent exclusive representative for a bargaining unit that is the subject of an election under § 3-405 of this title may not request or receive any employee information as provided under subsections (a) and (b) of this section.

(f) *Fees.* — An employer may charge an exclusive representative a fee not to exceed the actual cost of providing a list of employees' names, addresses, telephone numbers, and work information to the exclusive representative.

(g) *Confidentiality of information provided to exclusive representative; permitted use of information.* — (1) Except as provided in paragraph (2) of this subsection, an exclusive representative shall consider the information that it receives under this section as confidential and may not release the information to any person.

(2) An exclusive representative may authorize third party contractors to use the information that it receives under this section, as directed by the exclusive representative, to carry out the exclusive representative's statutory duties under this title.

(h) *Prohibited and permitted uses of information by exclusive representative.* — (1) An exclusive representative may not use the information that it receives under this section for the purpose of increasing employee membership in an employee organization.

(2) An exclusive representative may use the information that it receives under this section only to carry out its statutory duties under this title. (1999, ch. 298, § 2; 2006, ch. 62; 2007, ch. 634.)

**Cross references.** — See editor's note concerning redesignations under § 3-205 of this subtitle.

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, rewrote the section.

Chapter 634, Acts 2007, effective July 1, 2007, added (d)(4).

**Editor's note.** — Chapter 62, Acts 2006, enacted over the Governor's veto April 10, 2006, and effective July 1, 2006, redesignated former § 3-208 as § 3-207 of this subtitle and redesignated former § 3-209 as § 3-208 of this subtitle.

### § 3-209. Failure to comply with order of Board.

(a) *Circuit court compliance petition.* — If a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the person to comply with the Board's order.

(b) *Bond exemption.* — The Board shall not be required to post bond in an action under subsection (a) of this section. (1999, ch. 298, § 2; 2006, ch. 62.)

**Cross references.** — See editor's note concerning redesignations under § 3-205 of this subtitle.

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor in the House and in the Senate on April 10, 2006, and effective July 1, 2006, reenacted the section without change.

**Editor's note.** — Chapter 62, Acts 2006, enacted over the Governor's veto April 10, 2006, and effective July 1, 2006, redesignated former § 3-209 as § 3-208 of this subtitle and redesignated former § 3-210 as § 3-209 of this subtitle.

### Subtitle 2A. State Higher Education Labor Relations Board.

### § 3-2A-01. Established.

**Effect of amendments.** — Chapter 62, Acts 2006, passed over the veto of the Governor on

April 10, 2006, and effective July 1, 2006, reenacted the section without change.